

PATENT

Attorney Docket No. UCSD-04742

IN THE UNITED STATES PATENT AND TRADEMARK OFFICE

In re Application of: Roman Sakowicz *et al.*
Serial No.: 09/235,416
Filed: 01/22/99
Entitled: Identification and Expression of
a Novel Kinesin Motor Protein

Group No.: 1645
Examiner: L. Lee

PETITION UNDER 37 C.F.R. § 1.182 TO REVIVE
APPLICATION THAT WAS IMPROPERLY
ABANDONED BY THE OFFICE

Assistant Commissioner for Patents
Washington, D.C. 20231

CERTIFICATE OF MAILING UNDER 37 C.F.R. § 1.21(a)(1)(A)	
I hereby certify that this paper (along with any referred to as being attached or enclosed) is being deposited with the United States Postal Service with sufficient postage as first class mail in an envelope addressed to: Assistant Commissioner for Patents, Washington, D.C. 20231, as here shown below.	
Dated: February 14, 2001	By: <u>Marilyn Moy</u> Marilyn Moy

Sir/Madam:

ACTION REQUESTED

Applicants respectfully petition the Commissioner of the Patent and Trademark Office pursuant to 37 C.F.R. § 1.182 to (1) revive the above-identified patent application which was improperly abandoned by the U.S. Patent & Trademark Office (USPTO), (2) refund the petition fee upon the grant of this Petition, and (3) expedite examination of the application upon grant of this Petition, because the error resulting in abandonment of the application is attributed to the USPTO.

STATEMENT OF FACTS AND EVIDENCE
[REVOCATION OF PRIOR POWERS (Tab 1) AND
STAMPED RECEIPT POSTCARD (Tab 2)]

Applicants mailed to the USPTO on January 31, 2001 a document entitled "POWER OF ATTORNEY BY ASSIGNEE (REVOCATION OF PRIOR POWERS)" (copy enclosed at Tab 1) together with a postcard that expressly listed the "Power of Attorney by Assignee

PATENT

Attorney Docket No. UCSD-04742

(Revocation of prior Powers)." Receipt by the USPTO of this postcard and of the documents listed thereon was confirmed by the USPTO's stamp date of February 5, 2001 which appears on the postcard (Tab 2). Applicants did not receive any further written communication from the USPTO for 26 months from the mailing date of an Office Action mailed on September 7, 2000. Therefore, Applicants mailed on November 25, 2002 to the USPTO a "Status Inquiry." In response to this inquiry, Applicants' representative, Dr. Maha Hamdan, received on February 13, 2002 a telephone call from Ms. Aster of the USPTO¹ in which Ms. Aster stated that this application was abandoned for failure to respond to an Office action that was mailed by the USPTO on November 2, 2001. Ms. Aster also stated that the Office Action was mailed by the USPTO to the prior law firm, Townsend & Townsend & Crew. Applicants have not received the Office Action mailed on November 2, 2001.

POINTS TO BE REVIEWED

Applicants filed a document that expressly "revokes any powers of attorney which may have been filed and appoints the members of the firm of MEDLEN & CARROLL, LLP" (Tab 1). This document also expressly requested the USPTO to "direct all future correspondence and telephone calls regarding this application to: Kamrin T. MacKnight, MEDLEN & CARROLL, LLP, 220 Montgomery Street, Suite 2200, San Francisco, California 94104." Importantly, this document was received by the USPTO on February 5, 2001 (as evidenced by the stamped postcard at Tab 2) which is prior to the mailing date of the November 2, 2001 Office Action. Thus, despite Applicants' timely and express instructions, the USPTO improperly mailed the Office Action to the prior law firm, whose power of attorney was revoked.

In view of the above, the abandonment of this application by the USPTO was improper, and the application should be revived. Furthermore, since the abandonment was due to the USPTO's error, the accompanying petition fee should be credited to the Applicants, and examination of the application should be expedited by mailing a copy of the November 2, 2001 Office Action to Applicants (please note the attached change of address for MEDLEN & CARROLL, LLP).

¹ Ms. Aster's telephone is (703) 308-0198.

PATENT
Attorney Docket No. **UCSD-04742**

The Commissioner is hereby authorized to charge any fees associated with filing this petition (including the fee under 37 CFR § 1.17(h)) or credit overpayment to our Deposit Account No. 08-1290. An originally executed duplicate of this transmittal is enclosed for this purpose.

Signed on behalf of:

Dated: February 14, 2003



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1